

**DARBY &  
DARBY**

PROFESSIONAL  
CORPORATION

INTELLECTUAL PROPERTY LAW

805 THIRD AVENUE  
NEW YORK, NY 10022-7513  
TEL (212) 527-7700  
FAX (212) 753-6237



#26  
Bred  
12-10-01

**JOSEPH B. LERCH**  
MEMBER OF THE FIRM  
212-527-7700  
jlerch@darbylaw.com

November 20, 2001

Reference: 8909/82382

*Receipt date granted  
is 11/16/01.  
J. Chang  
from OPLA*

**VIA REGISTER MAIL NO. RR 622 592 624 US  
RETURN RECEIPT REQUESTED**

Commissioner of Patents  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

**Re: Request for Filing Date Pursuant to Unites States Postal Service  
Interruption of Express Mail Service**

Sir:

This is a request to have a filing date of November 16, 2001 accorded to each paper included in 13 express mail packages contained in two boxes accompanying this letter.

This letter is also accompanied by the declaration of Orlando Catala and the declaration of Gabriella Karaszi.

In our office, services, such as copying and messenger services, are performed on site by employees of Archer Management Services. The senior site manager, Mr. Gerald Brown, manages several customer service representatives, Mr. Catala, being one of them.

In our office, express mail is delivered to the local post office (53<sup>rd</sup> Street and 3<sup>rd</sup> Avenue) by a customer service representative each evening. The express mail is packaged into express mail packages by various clerks in the docketing department, who seal the express mail packages. Each express mail package is identified by its label number on a form entitled "Express Mail Confirmation", which also shows the initials of the docket clerk who provided the package. Upon delivering the Express Mail, the

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customer service representative is required to fill in, date and sign the Messenger Certification on the back of the form.

Exhibit A to the declaration of Orlando Catala (a two-sided document) is a true copy of the Express Mail Confirmation for November 16, 2001 (Catala Declaration, Paragraph 3). On the back, it has the messenger certification which, in this case indicates that the 16 packages identified were delivered to the post office at 53<sup>rd</sup> Street and 3<sup>rd</sup> Avenue at 9pm on November 16, 2001 (Catala Declaration, Exhibit A).

However, the post office clerk refused to accept 13 of the express mail packages (Catala Declaration, Paragraph 4).

In the second paragraph of the messenger certification, Mr. Catala authorizes any attorney at Darby & Darby to file all papers on his behalf that may be necessary to prove a date of delivery of the express mail packages. The undersigned is filing the present request in that capacity.

Ms. Gabriella Karaszi is the Docketing Manager at Darby & Darby (Karaszi Declaration, Paragraph 1).

On November 19, 2001, she opened each of the thirteen express mail packages and inserted a copy of a letter from the United States Postal Service advising a suspension of express mail service to zip codes 202 - 205 (Karaszi Declaration, Exhibit A). She did not add anything else to or remove anything from any of the packages and retained them in her possession up to the time they were sealed for re-mailing to the United States Patent and Trademark Office. (Karaszi Declaration, Paragraph 3).

Ms. Karaszi identifies Exhibit B to her declaration as a true copy of the Express Mail Confirmation form for November 16, 2001 (Karaszi Declaration, Paragraph 4). A comparison will reveal that it is identical to Exhibit A of the Catala Declaration.

Thus, an effort was made to deposit each of the enclosed express mail packages at the local post office for delivery to the United States Patent and Trademark Office by express mail service. However, owing to the U.S. postal service's refusal to accept November 20, 2001 the packages, delivery in this manner proved impossible.


The undersigned has therefore submitted all of the packages by registered mail pursuant to the USPTO notice of November 20, 2001

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and now requests that each paper included in each of the packages be  
accorded a filing date of November 16, 2001, since the indicated  
procedure has now been complied with.

Respectfully submitted,

  
Joseph B. Lerch  
Reg. No. 26,936  
Attorney For Applicant(s)

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November 20, 2001

Reference: 8909/82382

**DECLARATION OF ORLANDO CATALA**

I, Orlando Catala declare that:

1. I am employed by Archer Management Services as a customer service representative.

2. On November 16, 2001, I was so employed and stationed at the offices of Darby & Darby P.C., 805 Third Avenue, New York, New York, 10022.

3. On that date, I accepted 16 express mail packages from the docketing department at Darby & Darby. In accordance with my instructions, I confirmed that the express mail label number for each of the packages appeared on an Express Mail Confirmation form and that the docket clerk providing the package was identified next to the label number. Upon delivering the express mail packages to the local post office, I filled in the location of the post office, the date and time of delivery, and signed the Messenger Certification on the back of the form. A true copy of that Express Mail confirmation form is attached as Exhibit A.

4. This evening, however, the clerk at the express mail window refused to accept thirteen of the packages. I therefore brought the thirteen packages back to the offices of Darby & Darby.

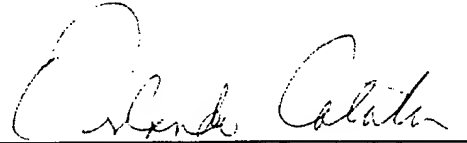
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I further, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: \_\_\_\_\_

11/20/01



Orlando Catala

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November 20, 2001

Reference: 8909/82382

**DECLARATION OF GABRIELLA V. KARASZI**

I, Gabriella V. Karaszi declare that:

1. I am employed by Darby & Darby, P.C., 805 Third Avenue, New York, New York 10022 as Docketing Manager.
2. I have been informed by Mr. Gerald Brown, Sr. Site Manager for Archer Management Services that, on the evening of Friday, November 16, 2001 a messenger attempted to deposit several of our Express Mail packages at the United States Post Office and that they were not accepted. Thirteen of the packages were addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231-9998. These were not accepted.
3. On Monday, November 19, 2001, I opened each of the thirteen Express Mail packages to enclose a copy of a United States Postal Service Suspension Notice, copy attached as Exhibit A. I did not add anything else to or remove anything from any of the packages. They have remained in my sole possession up to the time of being sealed for re-mailing to the United States Patent and Trademark Office.
4. Attached as Exhibit B is a true copy of our Express Mail Confirmation form for November 16, 2001, signed by Mr. Orlando Catala. On this form is the Express Mail label number of each Express Mail envelope he took to the post office and the initials of the docket clerk who provided the package. On the back is a Messenger Certification, which appears to have been filled in, dated and signed by Mr. Catala.

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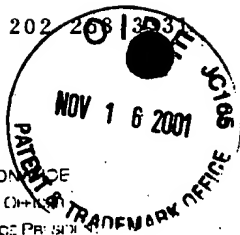
I further, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date:

November 20, 2001

Gabriella V. Karaszi  
Gabriella V. Karaszi

PATRICK R. DONAHOE  
CHIEF OPERATING OFFICER  
AND EXECUTIVE VICE PRESIDENT



UNITED STATES  
POSTAL SERVICE

202 268-5394

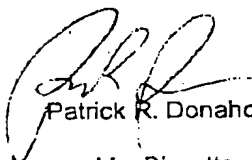
November 16, 2001

VICE PRESIDENTS, AREA OPERATIONS  
MANAGER, CAPITAL METRO OPERATIONS

SUBJECT: Temporary Suspension of Express Mail Service to  
Washington, D.C. ZIP Codes 202 through 205

Due to current operating conditions and government security measures, Express Mail products destined for federal government agencies in Washington, D.C. (ZIP Codes 202 through 205), are experiencing significant delays. Therefore, effective immediately Express Mail service to Washington, D.C., ZIP Codes 202 through 205, is temporarily suspended. The sales of this services is to be discontinued at all retail locations, including Contract Postal Units (CPUs). Customers should be advised either to use First-Class Mail for mail destined for these ZIP Codes or wait to send items until this temporary suspension is lifted.

Business customers will be advised of this suspension through the Business Service Network. You will be advised when this suspension is lifted. If you have questions or need additional information, please contact Henry Pankey at (202) 268-5394.

  
Patrick R. Donahoe

cc: Ms. Bizzotto

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EXPRESS MAIL CONFIRMATION (Please Print)

1. Express Mail Label No. EL 767719929 US From: PAT. DP
2. Express Mail Label No. EL 767719932 US From: PCT DP
3. Express Mail Label No. EL 767719946 US From: Reed DP
4. Express Mail Label No. EL 767720374 - US From: IDS DP
5. Express Mail Label No. EL 706716433 - US From: Reed DP TM.
6. Express Mail Label No. EL 767720391 US From: MSA DP AD
7. Express Mail Label No. EL 767720388 - US From: IDS BWL
8. Express Mail Label No. EL 767720414 US IF From: AD
9. Express Mail Label No. EL 767719552 - US From: DD
10. Express Mail Label No. EL 706716416 - US From: D.D. TM
11. Express Mail Label No. EL 706716420 - US From: D.D. TM
12. Express Mail Label No. EL 767720405 - US From: Supp IDS BWL
13. Express Mail Label No. EL 767719950 US From: PAT DP
14. Express Mail Label No. EL 767720428 - US From: Landm. BWL
15. Express Mail Label No. EL 767719773 US From: D.D.
16. Express Mail Label No. EL 767720431 - US From: IF BWL
17. Express Mail Label No. \_\_\_\_\_ From: \_\_\_\_\_
18. Express Mail Label No. \_\_\_\_\_ From: \_\_\_\_\_
19. Express Mail Label No. \_\_\_\_\_ From: \_\_\_\_\_
20. Express Mail Label No. \_\_\_\_\_ From: \_\_\_\_\_

**Messenger:** Before completing and signing this form, please be certain that each of the Express Mail Labels is clearly marked by the postal clerk with a "date in" and then attach them to this page.

(see other side)

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Messenger Certification

*This certifies that I have hand delivered sealed Express Mail envelopes with the label numbers shown above to the post office identified below and on the date shown. I received each envelope in sealed form from the person identified above.*

*In the event that it becomes necessary to prove a date of delivery of any of the above envelopes to the United States Patent And Trademark Office (USPTO), I authorize any attorney at Darby & Darby to file any necessary papers in my name or on my behalf. In the event that it becomes necessary to prove the contents of any of the above envelopes, I authorize the person who gave me the envelope to do so in my name or on my behalf.*

*It may become necessary to submit this paper to the USPTO. Any person signing a paper so submitted is presumed to vouch for the truth of all statements appearing in the paper. If you know any statement above to be untrue, signing this paper may therefore subject you to penalties for committing perjury under the laws of the United States of America.*

POST OFFICE LOCATION :

53 rd 3rd Fl.

Messenger:

J. Catala

(Name, print)

J. Catala

(Signature)

Date:

9/20

Time:

9:00